



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 26 2009

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

Certified Mail #7004-1160-0002-3622-5423

In Reply Refer to:

EPA File No. 14R-06-R6

[REDACTED]
P.O. Box 1366
Texas City, TX 77592

Re: Rejection of Administrative Complaint

Dear [REDACTED]

This letter is in response to your administrative complaint filed with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR). Your complaint alleges that the Texas Commission on Environmental Quality (TCEQ), Galveston County Health District (GCHD), and EPA violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulations found at 40 C.F.R. Part 7. Your complaint was received by EPA on September 18, 2006. The complaint alleged that TCEQ, GCHD, and EPA discriminated against African Americans in Texas City, Texas by allowing exposure to toxic air pollution from Sterling Chemicals, Inc., and by not continuously monitoring air emissions from the Sterling Chemicals, Inc. facility.


Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of discrimination complaints to determine acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

As stated above, a complaint must be filed within 180 calendar days of the alleged discriminatory act. In a December 6, 2007, letter, OCR asked you to provide the date(s) of the alleged discriminatory acts described in your complaint. To date, you have not provided the information requested in that letter. Therefore, since the allegations in your complaint do not satisfy the jurisdictional requirements in EPA's nondiscrimination regulations, OCR must reject your complaint for investigation.

Finally, your complaint named EPA as one of the entities in violation of Title VI and EPA's nondiscrimination regulations. Title VI does not apply to the Federal government. Therefore, a Federal agency cannot be considered a "recipient" within the meaning of Title VI.¹ As a result, a Title VI complaint cannot be filed against EPA.

If you have any questions, please contact Anthony Napoli of my staff via Federal Relay Service 800-877-8339, and provide the relay operator his telephone number 202-233-0652. He may also be reached via electronic mail at Napoli.Anthony@epa.gov, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460-1000.

Sincerely,



Karen D. Higginbotham
Director

Enclosure

cc: Mark R. Vickery, P.G., Executive Director
Texas Commission on Environmental Quality
Mail Code 109
P.O. Box 13087
Austin, TX 78711-3087

Dr. Harlan Guidry, CEO
Galveston County Health District
P.O. Box 939
La Marque, TX 77568

Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office (2399A)

Sherry Brown-Wilson, Title VI Coordinator
EPA Region 6

¹ U.S. Department of Justice, Coordination and Review Section, "Title VI Legal Manual" (2001).